

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KIRK A. SWANSON,

Plaintiff,

-against-

BATTERY PARK CITY AUTHORITY and
SHARI HYMAN,

Defendants.
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: No. 15 Civ. 06938

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**NOTICE OF MOTION TO
DISMISS THIRD CLAIM
FOR RELIEF PURSUANT TO
12 (B)(6)**

**(ORAL ARGUMENT
REQUESTED)**

PLEASE TAKE NOTICE that at the United States Courthouse at 40 Foley Square, New York, New York, 10007, Courtroom 706, Defendant Battery Park City Authority, by its attorneys, Vandenberg & Feliu, LLP, will move this Court, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for an Order dismissing the Third Claim for Relief set forth in Plaintiff's Amended Complaint ("Amended Complaint"), under the New York False Claims Act ("NYFCA"), New York State Finance Law § 187 et seq., for failure to state a claim upon which relief can be granted, because the Amended Complaint (i) fails to allege the existence of a "false claim" in violation of NYFCA, (ii) fails to allege that Plaintiff was engaged in protected activity under NYFCA, and (iii) fails to allege that Plaintiff's conduct put Defendants on notice of a potential NYFCA claim.

Dated: New York, New York
November 24, 2015

VANDENBERG & FELIU, LLP

By: /s/ Christopher A. D'Angelo
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